

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

ORIGINAL

★ MAY 2 2006 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

- - - - - X

UNITED STATES OF AMERICA

- against -

PRELIMINARY ORDER OF
FORFEITURE

CR-04-0038 (S-1) (ERK)

JEAN GARDY BAPTEAU,

Defendant.

- - - - - X

WHEREAS, in the Superseding Indictment in the above-captioned case, the United States sought forfeiture pursuant to Title 21, United States Code, Section, 853, of any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the violation of Title 21, United States Code, Section 952(a), and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation, as alleged in the Superseding Indictment; and

WHEREAS, on or about September 13, 2004, the defendant, JEAN GARDY BAPTEAU, pleaded guilty to violation of Count One of the Superseding Indictment, to wit, 21 U.S.C. § 963, knowingly and intentionally conspiring with others to import a controlled substance into the United States from a place outside thereof, which offense involved five kilograms or more of a substance containing cocaine, a Schedule II controlled substance; and

WHEREAS, on September 13, 2004, this Court found a basis to accept and did so accept the Defendant's guilty plea; and

WHEREAS, the Defendant has consented and agreed to forfeit to the United States the sum of \$450,000.00 in United States currency, and further agreed to the entry of a \$450,000.00 forfeiture money judgment against him (the "Forfeiture Money Judgment"); and

WHEREAS, the Defendant has agreed to forfeit all of his right, title and interest in the following properties in partial satisfaction of the Forfeiture Money Judgment:

(1) the lot and parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments, and easements, located at 122-14 135th Avenue, South Ozone Park, New York 11420 (the "Ozone Park property"); and

(2) all funds on deposit in or transferred to or through, North Fork Bank account no. 9171025308, held in the name of Jean G. Bapteau, and all proceeds traceable thereto (the "Northfork Bank account"); and

WHEREAS, the Defendant provided the Government \$192,000.00, which represents the Defendant's interest in the Ozone Park property.

WHEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Pursuant to 21 U.S.C. § 853, a Forfeiture Money Judgment in the amount of \$450,000.00 United States currency, is hereby entered against the defendant in favor of the United States.

2. In partial satisfaction of the Forfeiture Money Judgment, the following properties are condemned and forfeited to the United States of America:

(a) \$192,000.00, which represents Defendant's interest in the Ozone Park property; and

(b) all funds on deposit in or transferred to or through the Northfork Bank account and all proceeds traceable thereto, (collectively, the "Forfeited Property") as property constituting, or derived from, proceeds that the Defendant obtained, directly or indirectly, as a result of his violation of 21 U.S.C. § 963, and/or that was used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation and/or constituting substitute assets as defined in 21 U.S.C. § 853(p), and thus is subject to forfeiture to the United States.

3. In accordance with the plea agreement, the Forfeiture Money Judgment shall be paid to the United States by tendering a check made payable to the Department of Treasury and delivered to Brendan G. King, Assistant United States Attorney, Eastern District of New York, One Pierrepont Plaza,

16th Floor, Brooklyn, New York 11201. If the Forfeiture Money Judgment is not satisfied by the Defendant's sentencing, pursuant to the terms of the Plea Agreement, the Defendant has agreed and shall forfeit any other property of his up to the amount of the Forfeiture Money Judgment.

4. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order shall become final as to the Defendant at the time of sentencing and shall be made part of the sentence and included in the judgment.

5. Upon entry of this Order, the United States Attorney General, or designee, is authorized to conduct any proper discovery in accordance with Fed. R. Crim. P. 32.2(b)(3) and (c), and to commence any applicable proceeding to comply with statutes governing third party rights, including giving notice of this Order.

6. The United States shall publish notice of this Order and its intent to dispose of the property in such a manner as the United States Attorney General (or his designee) may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property as a substitute for published notice as to those persons so notified.

7. Any person, other than the defendant, asserting a legal interest in property subject to this Order may, within 30 days of the final publication of notice or his receipt of notice, whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

8. The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest, any additional facts supporting the petitioner's claim, and the relief sought.

9. At the conclusion of any hearing on a petitioner's claim to the subject property, the Court shall enter a Final Order of Forfeiture disposing of all such claims of interest. If no such claim of interest is filed, this Preliminary Order shall become the Final Order of Forfeiture as to all interests in the property.

10. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

11. The Clerk of the Court shall forward six (6) certified copies of this Order to Assistant U.S. Attorney Brendan G. King, U.S. Attorney's Office, Eastern District of New York, One Pierrepont Plaza, 16th Floor, Brooklyn, New York.

Dated: Brooklyn, New York
4/27, 2006

s/Edward R. Korman

HONORABLE EDWARD R. KORMAN
CHIEF UNITED STATES DISTRICT JUDGE